

Message Text

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ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00 L-03

NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 FEA-01 OIC-02 /154 W

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TO SECSTATE WASHDC 6712

INFO AMEMBASSY TEL AVIV

AMEMBASSY JIDDA

AMEMBASSY CAIRO

USINT BAGHDAD

AMEMBASSY KUWAIT

AMEMBASSY QUITO

AMEMBASSY LIMA

AMEMBASSY SINGAPORE

AMEMBASSY JAKARTA

AMEMBASSY KUALA LUMPUR

AMEMBASSY TEHRAN

AMEMBASSY MOGADISCIO

AMEMBASSY BONN

AMEMBASSY COPENHAGEN

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AMCONSUL AMSTERDAM
AMEMBASSY BRASILIA

C O N F I D E N T I A L SECTION 1 OF 3 USUN 1413

FROM LOSDEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: COMMITTEE II MEETINGS, MARCH 30, 1976

1. SUMMARY: C-II, IN A FULL DAY OF DISCUSSION, COMPLETED DEBATE OF ARTICLE 33 (CONTIGUOUS ZONE) AND ARTICLES 34-38 (STRAITS). OPERATING UNDER THE RULE THAT SILENCE IS CONSENT TO THE EXISTING TEXT, IT NOW APPEARS THAT THE SUBSTANTIAL MAJORITY IS PREPARED TO ACQUIESCE UNIMPEDED PASSAGE OF STRAITS, AS DRAFTED. MANY ARAB STATES DID NOT RPT NOT SEPAK, OR SUPPORTED TECHNICAL AMENDMENTS THAT INDICATED BASIC ACCEPTANCE. SPAIN AND GREECE ARE STILL OPPOSING US, BUT THEIR BASIC THRUST NOW SEEMS TO BE OPPOSITION ON OVER-FLIGHT. INDONESIA WAS "NOT YET PERSUADED" ON TRANSIT PASSAGE AND RASIED PROVOCATIVE "QUESTIONS." INNOCENT PASSAGE REGIME FOR INTERNATIONAL STRAITS WAS ADVOCATED BY MALAYSIA, CHINA, OMAN, SOMALIA, EGYPT, LIBYA, YEMEN. AT THE END OF THE DAY, THE U.S. HAD REASON TO BE CAUTIOUSLY OPTIMISTIC.

2. ON ARTICLE 33, IN ADDITION TO A FEW SMALL AND UNINFLUENTIAL STATES, ONLY ECUADOR PRESSED FOR DELETION. TEN OF THE ELEVEN EASTERN AND WESTERN EUROPEAN DELEGATIONS WHICH INTERVENED, CONFIDENTIAL

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AS WELL AS COLUMBIA, ISRAEL, LIBYA, ZAMBIA, SINGAPORE AND TURKEY, SOUGHT LIMITATIONS OF THE ZONE TO 12 MILES FROM THE BASELINES OR, IN THE CASE OF SEVEN OF THOSE COUNTRIES, DELETION OF THE ARTICLE AS A PREFERABLE ALTERNATIVE. SAUDI ARABIA'S PROPOSAL TO INCLUDE PROTECTION OF SECURITY AND FISHERIES GAINED, IN ADDITION TO EARLIER EGYPTIAN SUPPORT, THE APPROVAL OF IRAQ AND KUWAIT FOR SECURITY ASPECT. ONLY GUINEA SUPPORTED ECUADOR'S PROPOSAL TO MOVE THE

CONCEPTS EMBODIED IN ARTICLE 33 TO THE ECONOMIC ZONE ARTICLES. THE PERUVIAN PROPOSAL TO EXPRESSLY REFERENCE ARTICLES 45 AND 48.2 AROUSED LITTLE INTEREST. EIGHTEEN STATES (LARGELY WESTERN EUROPEAN AND MIDDLE EASTERN) SOUGHT A DELIMITATION PROVISION. GREECE SOUGHT THE MEDIAN LINE AND TURKEY (WITH LESS SUPPORT) ADVOCATED THE PRINCIPLE OF EQUITY.

3. STRAITS. A PROPOSAL BY MALAYSIA TO DELETE THE STRAITS ARTICLES IN TOTO WAS SUPPORTED EXPRESSLY ONLY BY CHINA AND OMAN AND IN SPIRIT ONLY BY SOMALIA. GREECE PROPOSED TO MERELY QUOTE UPDATE UNQUOTE THE RELEVANT 1958 CONVENTION. YEMEN ADVOCATED APPLICATION OF THE REGIME OF INNOCENT PASSAGE. SPAIN PROPOSED THAT THE STRAITS SECTION BE MADE A SUBSECTION OF THE PART DEALING WITH THE TERRITORIAL SEA. SPAIN ALSO PROPOSED TO TITLE THE SUBSECTION QUOTE NAVIGATION THROUGH STRAITS UNQUOTE VICE QUOTE TRANSIT PASSAGE UNQUOTE AND TO DELETE QUOTE NOTE TRANSIT UNQUOTE WHEREVER ELSE IT APPEARS. YEMEN, DESPITE ITS SUPPORT FOR INNOCENT PASSAGE, WAS SYMPATHETIC TOWARD THESE SPANISH PROPOSALS AS CONSISTENT WITH ITS OVERALL POSITION. PERU AND GREECE ALSO SUPPORTED THESE PROPOSALS.

4. THE GENERAL STRAITS ARTICLES (34-36) AROUSED RELATIVELY LITTLE INTEREST. APART FROM THE ABOVE PROPOSALS TO DELETE, ARTICLE 34 WAS DISCUSSED IN SUBSTANCE BY ONLY A HANDFUL OF STATES. SPAIN PROPOSED DELETION OF PARAGRAPH 3, BUT WAS GIVEN NO SUPPORT. A TANZANIAN PROPOSAL TO DELETE ARTICLES 34 THROUGH 36 RECEIVED THE EXPRESS SUPPORT OF ONLY CHINA AND THE SYMPATHY OF SOMALIA.

5. ON ARTICLE 35 (EXCLUSIONS FROM THE PART DEALING WITH STRAITS USED FOR INTERNATIONAL NAVIGATION) NORWAY PROPOSED TO AMEND SUB-PARAGRAPH (A) TO READ QUOTE ANY AREA OF INTERNAL

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WATERS, UNLESS SUCH WATERS HAVE BEEN ENCLOSED BY STRAIGHT BASELINES AND WERE PREVIOUSLY CONSIDERED AS PART OF THE HIGH SEAS OR TERRITORIAL SEA UNQUOTE ICELAND, AUSTRIA, CHILE AND NIGERIA, SUPPORTED THIS. AN FRG PROPOSAL TO SUBSTITUTE QUOTE EXISTING LEGAL REGIME IN UNQUOTE FOR QUOTE LEGAL STATUS OF UNQUOTE IN (C) AND A DANISH PROPOSAL TO CHANGE IN THE FRG PROPOSAL QUOTE EXISTING UNQUOTE TO QUOTE PRESENT UNQUOTE WERE FAVORED BY THE GROUP OF FIVE AND SUPPORTED BY A WIDE SPECTRUM OF STATES. (BAHAMAS, GDR, UNITED ARAB EMIRATES, NIGERIA, FRANCE, AUSTRALIA, U.S., SWEDEN, UKRAINE, FINLAND, GAMBIA, BOLIVIA, PAPUA NEW GUINEA, SINGAPORE, BELGIUM, CZECHOSLOVAKIA, USSR, POLAND, BULGARIA, AND U.K.) TUNISIA PROPOSED TO DELETE QUOTE LONG STANDING UNQUOTE FROM SUB-PARAGRAPH (C) AND WAS SUPPORTED BY PERU, BELGIUM, PHILIPPINES AND NIGERIA. ITALY RECEIVED NO SUPPORT TO ADD IN

THE SAME SUB-PARAGRAPH QUOTE IN FORCE UNQUOTE AFTER QUOTE
AS GENERAL INTERNATIONAL LAW UNQUOTE. TURKEY, ON
THAT SUB-PARAGRAPH, PROPOSED TO DELETE QUOTE LEGAL UNQUOTE
AND ADD QUOTE AND REGIME OR INTERNATIONAL CONVENTIONS ON
STRAITS UNQUOTE AFTER QUOTE STATUS UNQUOTE.

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C O N F I D E N T I A L SECTION 2 OF 3 USUN 1413

FROM LOSDEL

GAMBIA SUPPORTED THIS PROPOSAL. A PROPOSAL BY THE GDR TO DELETE REFERENCE TO THE ECONOMIC ZONE WAS SUPPORTED BY AUSTRIA, UKRAINE, BOLIVIA, BELGIUM, CZECHOSLOVAKIA, USSR, POLAND, BULGARIA AND NIGERIA. AN ISRAELI PROPOSAL TO EXPRESSLY PRESERVE CONVENTIONS IN FORCE AND EXISTING INTERNATIONAL PRACTICE BY AN AMENDMENT TO (C) WAS NOT SUPPORTED. THE U.S. RESERVED ON ALL REFERENCES TO THE ECONOMIC ZONE. GREECE PROPOSED TO ADD AS SUB-PARAGRAPH (D) A REFERENCE TO QUOTE AIRSPACE OVER WHICH STRAITS STATES EXERCISE EXCLUSIVE SOVEREIGNTY UNQUOTE. THERE WAS NO SUPPORT AND, PREDICTABLY, TURKEY OPPOSED. A SIMILAR FATE BEFELL AN INDONESIAN PROPOSAL TO ADD AS SUB-PARAGRAPH (D) QUOTE THE REGIME OF PASSAGE THROUGH ARCHIPELAGIC WATERS AS STIPULATES IN PART 7 UNQUOTE, WITH SUPPORT BEING EXPRESSED ONLY BY PERU AND PAPUA-NEW GUINEA. ISRAEL'S PROPOSAL FOR A NEW (D) TO PROVIDE THAT FUTURE CONVENTIONS ON STRAITS MUST NOT BE INCOMPATIBLE WITH THIS TREATY ALSO WAS NOT SUPPORTED.

6. ARTICLE 36 (ALTERNATE PASSAGE ROUTES) RECEIVED THE COMMENTS OF ONLY NINE STATES. PERU SUPPORTED A UNITED ARAB EMIRATES PROPOSAL TO CONFORM MORE CLOSELY TO ARTICLE 38 THE EXCEPTION FROM STRAITS TRANSIT PASSAGE THROUGH TERRITORIAL
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SEAS OF SITUATIONS WHERE SIMILARLY CONVENIENT ALTERNATE ROUTES EXIST THROUGH THE HIGH SEAS OR ECONOMIC ZONE. AUSTRALIAN AND ITALIAN TECHNICAL AMENDMENTS WERE IGNORED. SPAIN'S PROPOSAL TO SUBSTITUTE QUOTE SUB-SECTION UNQUOTE FOR QUOTE PART UNQUOTE WAS SUPPORTED BY YEMEN, PERU AND GREECE. BULGARIA PROPOSED TO ADD AFTER QUOTE CONVENIENCE UNQUOTE QUOTE OWING TO CONDITIONS OF NAVIGATION OR HYDROGRAPHY UNQUOTE. USSR SUPPORTED.

7. ON ARTICLE 37 (DEFINITION OF STRAITS USED FOR INTERNATIONAL NAVIGATION) SPAIN REPEATED ITS SUB-SECTION PROPOSAL AND WAS SUPPORTED BY PERU, YEMEN AND THE PHILIPPINES. NO STATE SUPPORTED AN ISRAELI PROPOSAL TO DELETE AND SUBSTITUTE QUOTE ARTICLES OF THIS SECTION APPLY TO ALL STRAITS FOR INTERNATIONAL PASSAGE WHOSE WATERS ARE PART OF THE TERRITORIAL WATERS OF ONE OR MORE COASTAL STATES UNQUOTE. A CHILEAN DRAFTING POINT WAS IGNORED AND AN FRG TRANSLATION POINT WAS SUPPORTED BY THE U.S., ALONE.

8. ON ARTICLE 38 (LIMITATIONS OF TRANSIT PASSAGE) THERE WERE 50 INTERVENTIONS, DURING THE COURSE OF WHICH THE CRITICAL ISSUES OF TRANSIT PASSAGE, GENERALLY, AND AIRCRAFT OVERFLIGHT, PARTICULARLY, SOLIDIFIED. A YEMENI PROPOSAL TO DELETE REFERENCE TO THE RIGHT OF OVERFLIGHT WAS SUPPORTED BY SEVENTEEN COUNTRIES (CHINA, IRAN, EGYPT, SPAIN, PHILIPPINES, GUINEA, PERU, GHANA, GREECE, SOMALIA, INDONESIA, (UNTIL IT RECEIVES SUFFICIENT QUOTE GUARANTEES UNQUOTE, TANZANIA, SENEGAL, TOGO, LIBYA, DEMOCRATIC YEMEN AND CONGO). BOTH YEMEN AND INDONESIA NOTED THAT PRESENT SENT LANGUAGE RE: OVERFLIGHT WOULD PREVENT COASTAL STATE CONTROL OVER AIRCRAFT OVERFLYING STRAITS. A NUMBER OF PROPOSALS WERE PRESENTED WHICH WOULD HAVE THE EFFECT OF PLACING INTERNATIONAL STRAITS WITHIN THE REGIME OF INNOCENT PASSAGE. EGYPT PROPOSED TO SUBSTITUTE QUOTE INNOCENT UNQUOTE FOR QUOTE TRANSIT UNQUOTE. SOMALIA, LIBYA, CONGO AND OMAN APPROVED. THE UNITED ARAB EMIRATES WAS SUPPORTED BY PERU (ON CONDITION THAT QUOTE TRANSIT UNQUOTE AND THE REFERENCE TO AIRCRAFT WOULD BE DROPPED) AND BY KUWAIT ON A PROPOSAL TO ADD A NEW PARAGRAPH PROVIDING QUOTE THE RIGHT OF TRANSIT PASSAGE SHALL NOT INCLUDE ACTIVITIES NOT INCIDENT TO CONTINUOUS AND EXPEDITIOUS TRANSIT OF SHIPS AND AIRCRAFT, UNLESS

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RENDERED NECESSARY BY FORCE MAJEURE OR DISTRESS UNQUOTE AND TO DELETE IN PARAGRAPH 1 ALL AFTER QUOTE IMPEDED UNQUOTE. THE U.S. SUPPORTED A SAUDI PROPOSAL TO PROVIDE FOR STOPPING

OR ANCHORING ONLY IN CASE OF FORCE MAJEURE OR DISTANCE.
TOGO AND IRAN SUPPORTED INONESIAN PROPOSALS TO DELETE QUOTE
RIGHT TO UNQUOTE IN PARAGRAPHS 1 AND 3 AND TO DELETE
QUOTE FREEDOM OF UNQUOTE FROM PARAGRAPH 2. GREECE FOUND NO
SUPPORT TO ADD QUOTE GROUP OF ISLANDS UNQUOTE AFTER QUOTE
ISLAND UNQUOTE TO PARAGRAPH 1 NOR TO DELETE PARAGRAPH 3
AND SUBSTITUTE QUOTE SUBMARINES AND OTHER UNDERWATER
VEHICLES IN TRANSIT SHALL NAVIGATE ON THE SURFACE AND
SHOW THEIR FLAG UNLESS OTHERWISE AUTHORIZED BY THE COASTAL
STATE UNQUOTE. IRAN, DEMOCRATIC YEMEN AND PERU SUPPORTED
THE SPANISH REVISION OR ARTICLE 39 WHICH SPAIN DESCRIBED
AS A CONCESSION TO MARITIME STATES QUOTE:

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C O N F I D E N T I A L SECTION 3 OF 3 USUN 1413

FROM LOSDEL

(1) -- IN STRAITS REFERRED TO IN ARTICLE 37, ALL SHIPS
ENJOY THE RIGHT OF PASSAGE WHICH SHALL NOT BE IMPEDED.
WHEN THE STRAIT IS FORMED BY AN ISLAND OF THE STRAIT STATE
AND BEYOND THE ISLAND EXISTS A ROUTE NORMALLY USED
FOR THE PURPOSE OF NAVIGATION THROUGH THE HIGH SEAS OR
PASSING THROUGH AN EXCLUSIVE ECONOMIC ZONE, THE RIGHT OF PASSAGE
SHALL NOT APPLY.

(2) -- PASSAGE IS THE EXERCISE OF CONTINUOUS AND EXPEDITIOUS
TRANSIT OF THE STRAIT BETWEEN ONE AREA OF THE HIGH SEAS OR
AN EXCLUSIVE ECONOMIC ZONE AND ANOTHER AREA OF THE HIGH
SEAS OR AN EXCLUSIVE ECONOMIC ZONE.

(3) -- THE RIGHT OF PASSAGE RECOGNIZED UNDER THIS ARTICLE
MAY ALSO BE EXERCISED FOR THE PURPOSE OF NAVIGATION TO OR
FROM ANOTHER STRAIT STATE, SUBJECT TO THE CONDITIONS OF
ENTRY TO THAT STATE.

(4) -- ANY ACTIVITY WHICH IS NOT AN EXERCISE OF THE RIGHT OF PASSAGE THROUGH A STRAIT REMAINS SUBJECT TO THE OTHER APPLICABLE PROVISIONS OF THE PRESENT CONVENTION UNQUOTE. CHILE, U.K. AND BAHAMAS SUPPORTED THE U.S. PROPOSAL FOR CONFIDENTIAL

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SUBPARAGRAPH 1 TO ADD AFTER QUOTE ISLAND OF THE STRAIT STATE UNQUOTE QUOTE AND THE MAINLAND OF THAT STATE UNQUOTE.

9. A POLISH PROPOSAL FOR QUOTE AND PART OF ITS CONTINENTAL TERRITORY UNQUOTE IN PLACE OF THE U.S. PROPOSAL WAS SUPPORTED BY THE FRG, HUNGARY, BULGARIA, DEMOCRATIC YEMEN, FRANCE, CUBA, CHILE, NORWAY, UKRAINE, MONGOLIA, USSR, ROMANIA, BOLIVIA, U.K., BAHAMAS. PURSUANT TO CONSULTATIONS WITH CHILE, NORWAY, ARGENTINA, SINGAPORE AND THE GROUP OF FIVE, THE U.S. PROPOSED TO DELETE PARAGRAPH 3 AND ADD AT THE END OF THE SECOND PARAGRAPH QUOTE HOWEVER, THE REQUIREMENT OF CONTINUOUS AND EXPEDITIOUS PASSAGE HSALL NOT PRECLUDE PASSAGE THROUGH STRAITS FOR THE PURPOSE OF ENTERING OR LEAVING A STATE SUBJECT TO THE CONDITIONS OF ENTRY TO THAT STATE UNQUOTE. PERU, NORWAY, U.K., BAHAMAS AND CHILE SUPPORTED. BULGARIA SOUGHT TO ADD QUOTE FREE UNQUOTE BEFORE QUOTE TRANSIT UNQUOTE AND WAS SUPPORTED BY DEMOCRATIC YEMEN, CUBA, POLAND, MONGOLIA, USSR, IRAQ AND BOLIVIA. ZAMBIA PROPOSED TO DELETE REFERENCE TO THE ECONOMIC ZONE HERE AND WHEREVER ELSE IT APPEARS UNTIL THE SUBSTANTIVE ISSUE OF THAT ZONE HAS BEEN SETTLED. CHINA, OMAN, PERU AND ECUADOR SOUGHT AN AS YET UNDEFINED SPECIAL REGIME FOR THE PASSAGE OF WARSHIPS.

10. COMMENT: -- THE LACK OF WIDESPREAD OPPOSITION TO NAVIGATION INTERESTS IN THE STRAITS ARTICLES MAY HAVE BEEN A REFLECTION OF THE CONVICTION SHARED BY MOST PARTICIPANTS THAT THE FATE OF THE ECONOMIC ZONE PROVISIONS WILL LARGELY BE DETERMINED BY THE FATE OF THE STRAITS ARTICLES. THE U.S. AND USSR WERE UNEQUIVOCAL IN EXPRESSING THIS CONVICTION. TUNISIA, SENEGAL AND OTHER DEVELOPING COUNTRIES SUGGESTED THAT THE REVERSE WAS TRUE, AS WELL.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, INNOCENT PASSAGE, COMMITTEES, STRAITS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: SmithRJ
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USUNN01413
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760130-0174
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760490/aaaaczdx.tel
Line Count: 482
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 9
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: SmithRJ
Review Comment: n/a
Review Content Flags:
Review Date: 01 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 APR 2004 by CunninFX>; APPROVED <27 JUL 2004 by SmithRJ>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: COMMITTEE II MEETINGS, MARCH 30, 1976
TAGS: PLOS, UN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006